

UNAPPROVED MINUTES
Town of Auburn
Zoning Board of Adjustment
June 28, 2022

Present: Mike DiPietro, Chairman. Kevin Stuart, Vice-Chairman. Patrick Bergeron & Shawn Matte, Members. Steven Kimball, Alternate Member. Minutes recorded and prepared by Denise Royce.

Also, Present: Carrie Rouleau-Cote, Building Inspector/Code Enforcement Officer.

Absent: Jill Dross, Member. Nick Pappas & Shannon Daoust, Alternate Members.

Mr. DiPietro called the meeting to order at 7:01 p.m. At this time, Mr. DiPietro introduced the Board members to everyone present tonight and then explained the procedure for tonight's hearing. Mr. DiPietro explained that the Board had four (4) cases before them tonight. Mr. DiPietro elevated Mr. Kimball to full voting status for all the cases tonight in the absence of Jill Dross. Mr. DiPietro informed everyone that Mrs. Rouleau-Cote was also present tonight and pointed out that we would have everything on the big screen tonight so that everyone could follow along. Mr. DiPietro asked Ms. Royce to read the first case into the minutes. Ms. Royce read the first case into the minutes for the record.

Case #21-13
Maine Drilling & Blasting
88 Gold Ledge Avenue – Map 1, Lot 17-4
Zoned Industrial/Residential Two

Applicant is requesting a Variance to permit access to the viable uplands on a subject parcel that would impact 18,795 square feet of a Level One wetland buffer with no direct impacts to the actual wetlands area in an Industrial/Residential Two zone. (Article 5, Section 5.08(1)(a))

Mr. Karl Dubay of The Dubay Group will be presenting on behalf of Doug MacGuire who was on vacation. Mr. Dubay also informed the Board that Bill Scott was also present tonight. Mr. Dubay explained to the Board members that they have prepared a plan that would have the least impact to the wetlands. Mr. Dubay indicated that, they have met with the Conservation Commission and wanted to be sure that the Board received those minutes. Mr. DiPietro stated that he did hear that the Conservation Commission's comments were favorable for what was being proposed. At this time, Mr. Dubay read the application into the minutes for the record. Mr. Dubay also explained the two (2) access points with Gold Ledge Avenue being the best way to go and which would have the least impact to the wetlands. Mr. Dubay also wanted to point out that they have revised Sheet #3 of 5 to show that the total wetland buffer impact would be 19,614 square feet and not 18,795 square feet and therefore wanted to present the Board with the revised sheet. Mr. Dubay also explained that they would be utilizing the existing gravel woods road and

would be pulling it onto their lot. With that said, Mr. Dubay asked the Board if they had any questions. Mr. DiPietro thanked Mr. Dubay for his presentation and asked the Board members if they had any questions.

Mr. Bergeron asked what the area would be used for. Mr. Scott explained that Maine Drilling & Blasting about 10 years ago got involved with putting in pilings for buildings and bridges and that area requires more laydown space. Mr. Scott informed the Board members that they would be utilizing the uplands to be used for laydown of materials and drill accessories and the tools they would need to drill down into the rock and soils which requires a fair amount of laydown space.

Mr. Kimball asked about the existing gravel road. Mr. Dubay explained the location and with Maine Drilling & Blasting acquiring a parcel off of Gold Ledge Avenue that it would cease to exist at a portion and then go up and be all on their property and would still be able to have zero wetland impact and in doing that they would let the area no longer being used to grow naturally. Mr. Kimball asked if the other property had an easement to cross to use that road. Mr. Scott said no that it would be abandoned. A brief discussion ensued with regard to the existing gravel road. Mr. Stuart also asked about the section that would be abandoned and allowed to grow naturally if it was used now. Mr. Scott said no but there were about three (3) trees at the beginning of the road but that the rest of the road was in good shape and that they could drive up it today. Mr. Stuart noted that from the Planning Board minutes it looked like they would need a state permit. Mr. Dubay stated that they would need an Alteration of Terrain permit.

Mr. DiPietro asked if there were any abutters who would like to speak. None were noted. Mr. Stuart asked Mrs. Rouleau-Cote if she anything to add. Mrs. Rouleau-Cote asked if any utilities would be in the area of impact. Mr. Scott said yes.

At this time, Mr. Bergeron suggested that they enter into deliberation.

Mr. Bergeron made a motion to enter into deliberation. Seconded by Mr. Stuart. The Board entered into deliberation at 7:21pm.

Mr. Stuart commented that they should get site plan approval and state approval and also the woods road to be abandoned should also be included in the conditions. The Board all agreed. Mr. Stuart indicated that he did not have anything else to add.

With that said, Mr. DiPietro suggested coming out of deliberation.

Mr. Bergeron made a motion to come out of deliberation. Seconded by Mr. Stuart. The Board entered into deliberation at 7:22pm.

Mr. DiPietro mentioned that there seems to be a few conditions to be attached and asked for a motion to vote on this application with those stated conditions.

Mr. Stuart made a motion to vote on the application as submitted for Maine Drilling & Blasting, 88 Gold Ledge Avenue, Tax Map 1, Lot 17-4 with the following conditions: 1)that they obtain site plan approval; 2) that all state approvals are to be obtained; 3) that the total wetland buffer impact be no more than 19,614 square feet as shown on the revised plan submitted tonight; and, 4) that the 5,084 square feet of existing gravel path to be abandoned and allowed to naturalize as shown on Sheet#3 of the revised plan submitted tonight. Seconded by Mr. Bergeron. Mr. Matte voted to Grant finding all five (5) factors have been met, Mr. Stuart voted to Grant finding all five (5) factors have been met, Mr. Bergeron voted to Grant finding all five (5) factors have been met, Mr. Kimball voted to Grant finding all five (5) factors have been met, and Mr. DiPietro also voted to Grant finding all five (5) factors have been met. A vote was taken and, all were in favor and the motion passed.

Mr. DiPietro explained the 30-day appeal period and the two (2) year window for substantial completion. Mr. Dubay thanked the Board for their time and the discussion ended.

Case #21-14

Mark Alan Monroe, Trustee

Jessica L. Monroe, Trustee

50 McEvoy Drive – Map 9, Lot 16-20-1

Zoned Residential One

Applicant is requesting a Variance to allow the installation of a semi-inground pool and shed within the side setback where 30-feet is required in a Residential One zone. (Article 4, Section 4.06(6))

Mr. Monroe read his application into the minutes for the record. Mr. Monroe showed the Board members on a plan where on the property he is proposing this pool to be placed. With that said, Mr. Monroe asked the Board members if they had any questions regarding his request for relief.

Mr. DiPietro asked the Board if they had any questions. Mr. Stuart asked what amount of relief he would be looking for from the buffer. Mr. Monroe stated that the pool was approximately 26-feet and believed it would be 27-feet into the buffer. Mr. Monroe also talked about it possibly changing when they begin to excavate for the pool that things may change. A brief discussion ensued with regard to the location and believed that it would be within a few feet as the leachfield was in one area and that there was a wetland buffer. Mr. DiPietro indicated that the Board needs to know a number in order for them to grant relief that they cannot just issue a blank check. Mr. Monroe indicated how about 3-feet and pointed out that the nearest house was 2/10th of a mile.

Mr. Kimball asked about the shed. Mrs. Rouleau-Cote indicated that, he is also looking to place the shed but that a 10-foot by 12-foot shed is exempt from setbacks. Mr. Matte

asked Mr. Monroe why he could not move the pool and turn it. Mr. Monroe explained why he could not turn it because the main gathering area was in the backyard where the patio is, and the deck is. Mr. Monroe also talked about the boulder pit that was put in one section of the yard. Mr. DiPietro asked if there were any further questions for the applicant. None were noted.

Mr. DiPietro asked if there were any abutters present who would like to speak. None were noted. Mr. Bergeron wanted to know what Mrs. Rouleau-Cote had to say. Mrs. Rouleau-Cote explained that an above-ground pool is exempt from the setback requirements and because this pool was semi inground/above ground so as soon as the pool wall drops below 48 inches, she considers it an inground pool which is subject to all pool barrier requirements and such. Mrs. Rouleau-Cote had a question for the applicant and asked if there would be any other improvements such as a patio or anything like that that would be part of this. Mr. Monroe commented that there would be a staircase to go to the ground level.

Mr. DiPietro noted that there was a motion to enter into deliberations.

Mr. Stuart made a motion to enter into deliberation. Seconded by Mr. Bergeron. The Board entered into deliberation at 7:38pm.

Mr. Stuart commented that they need to get clarity on how close to the property line that he would want to be. The Board members all agreed. Mr. Kimball had a concern of it being so close to the property line and talked about the hardship criteria and without clarity he would find it very hard to find hardship as there is another alternative. Mr. Kimball also mentioned that they really needed a specific plan. Mr. DiPietro agreed and stated that they need to say no closer than X amount of feet. Mr. Kimball also stated that, he believed that zero would be unacceptable to the Board. With that in mind, Mr. Kimball suggested that the Board Table the hearing until the applicant can get clarity with the number of feet into the setback that he would need. Mr. Stuart also stated that he would find it hard to meet the hardship criteria as it is and agreed that coming back with a specific plan would be a lot better.

Mr. DiPietro asked if anyone else had any comments. None were noted. With that said, Mr. DiPietro suggested that the Board come out of deliberations.

With that said, Mr. DiPietro suggested coming out of deliberation.

Mr. Stuart made a motion to come out of deliberation. Seconded by Mr. Bergeron. The Board entered into deliberation at 7:43pm.

Mr. DiPietro informed the applicant that, he heard what the Board had to say and stated that either he come up with a number or he could request to have the discussion Tabled until he can obtain a clear number. Mr. Monroe understood and stated that they could commit to be no closer than 6-feet from the property line. Mr. Monroe also wanted to comment on the statement that was mentioned regarding the hardship and that the water

table was substantial due to the wetlands back there so having in the backyard did not seem like an option and that the pool contractor that he is working with did not recommend putting it in the backyard. Secondly, Mr. Monroe stated that inground pools are a lot more expensive than a semi-inground pool and working with the constraints that they have with the wetlands and water table is a hardship for them. Mr. DiPietro asked Mrs. Rouleau-Cote for comment. Mrs. Rouleau-Cote commented that, Mr. Monroe was the original owner and that when the subdivision was done that a functional analysis was done with regard to the wetland, and it was a tight lot. A brief discussion ensued with regard to the wetland and the functional analysis. Mr. Monroe also commented that they thought they were getting 2 acres and instead got what they got. Mr. Matte stated that this is a valid point that they did not have when they were in their deliberation and asked if there was something in the file. Mrs. Rouleau-Cote stated that the Board did not have the complete file, but the functional analysis could be found in the file. Mr. Matte asked Mr. Monroe if he had something from the pool company stating that this location was better than having it in the backyard. Mr. Monroe indicated that he could get this information. A brief discussion ensued with regard to the wetlands and functional analysis. Mr. Stuart commented that the analysis does change the hardship in his mind with that information on the wetland buffer.

Mr. DiPietro stated that he would entertain a motion to vote on the application.

Mr. Bergeron made a motion to vote on the application with the condition that the pool structure be no closer than 6-feet from the property line for Case #21-14, 50 McEvoy Drive, Tax Map 9, Lot 16-20-1 as presented tonight. Seconded by Mr. Matte. Mr. Matte voted to Grant because of the hardship, Mr. Stuart voted to Grant finding all five (5) factors have been met, Mr. Kimball voted to Grant finding all five (5) factors have been met, Mr. Bergeron voted to Grant finding all five (5) factors have been met, and Mr. DiPietro also voted to Grant finding all five (5) factors have been met. A vote was taken and, all were in favor and the motion passed.

Mr. DiPietro thanked the applicant and indicated that he would receive a Notice of Decision from Ms. Royce. Mr. DiPietro also reiterated that there was a 30-day appeal period as he stated before and the discussion ended. Mr. DiPietro asked Ms. Royce to read the next case. Ms. Royce read the case into the minutes.

**Case #21-15
Bradley Smith, Trustee
Melanie L. Payeur-Smith, Trustee
60 Pasture Road – Map 8, Lot 13-14
Zoned Residential Two**

Applicant is requesting a Variance to allow for a 29-foot by 50-foot detached residential garage to be 15-feet from the side property line where 30-feet is required in a Residential Two zone. (Article 4, Section 4.06(6))

Mr. & Mrs. Smith read their application into the minutes for the record. Mr. Smith explained to the Board that he is proposing a two-story garage with the above area being an entertaining area with a pool table and foosball table. Mr. Smith indicated that this was the only good place to put the garage due to the leachfield in the back and the topography of the lot. Mr. Smith talked about possibly doing a shelter logic but didn't believe the abutters would want to see it flapping in the breeze. Mr. Smith added that, they intend to make it look exactly like their house with the same siding and windows. By having this structure, it would help maintain the backyard by keeping things under cover and out of sight. Mr. Smith also noted that he did speak with the direct abutter at 70 Pasture Road and that they did not have any issues with what they are proposing to do. With that said, Mr. Smith asked the Board if they had any questions. Mr. Matte and Mr. Smith discussed the location on the property.

Mr. Stuart asked about the grade and possibly moving the garage to the back. Mr. Smith explained that the leachfield was located there and that the grade slopes off in this area. Mr. Kimball asked about the front and the green space. Mr. Smith was unsure if it was actually green space but talked about the topography and that it was wet all the time. Mr. Kimball asked if there was a wetland buffer line. Mrs. Rouleau-Cote indicated that, the wetland buffer line is what he is showing. Mr. DiPietro asked Mrs. Rouleau-Cote if she had anything to add. Mrs. Rouleau-Cote pointed out that she has not seen any building plans of the proposed structure yet and noted that he has indicated he was looking at doing a two-story with an entertainment area above. Mr. Smith said yes and for storage that comes along. Mr. Smith commented that it would be approximately 15-feet from the property line. Mr. DiPietro noted that they could say no closer than 15-feet from the property line. Mr. Kimball asked Mrs. Rouleau-Cote about lot coverage and if that would be an issue. Mrs. Rouleau-Cote said no as it was just building coverage.

Mr. DiPietro asked if there were any abutters or interested parties. Mr. John Marcotte of Pasture Road stated that he was here tonight in support of what Mr. Smith was proposing and they have no issues. Mrs. Jennifer McGrath of Pasture Road indicated that, she and her husband have no issues as well with what they are proposing.

Mr. Kimball asked if the second floor would be finished and if there would be any plumbing or utilities to the building. Mr. Smith stated that, the only utilities would be electricity and water and there would be no sewer. Mr. Kimball commented that there would be no living space above. Mr. Smith said no, there would be no living space above. Mr. Smith also commented that he has no intention of making it a commercial garage in the future. Mr. DiPietro stated that, if he did, he would have to come back before this Board.

With that said, Mr. Stuart moved that they vote on the application.

Mr. Stuart made a motion to vote on the application for 60 Pasture Road, Tax Map 8, Lot 13-14 with the condition that the structure (Residential Garage) be no closer than 15-feet from the property line as presented tonight. Seconded by Mr. Bergeron. Mr. Kimball voted to Grant as he believed all five (5) factors have been met, Mr. Bergeron voted to Grant as he believed all five (5) factors have been met, Mr. Matte voted to Grant noting all five (5) factors have been met, Mr. Stuart voted to Grant finding all five (5) factors have been met, and Mr. DiPietro also voted to Grant finding all five (5) factors have been met. A vote was taken and, all were in favor and the motion passed.

Mr. DiPietro reiterated about the two (2) years for substantial completion and explained about the 30-day appeal period. Mr. & Mrs. Smith thanked the Board and exited the meeting. Mr. DiPietro asked Ms. Royce to read the next case into the minutes. Ms. Royce read the case into the minutes.

Case #21-17

**Mary C, Schmidtchen, Trustee
8 Colonial Drive – Map 11, Lot 70-1
Zoned Residential Two**

Applicant is requesting a Special Exception from Article 4, Section 4.06(5)(i) to allow an Accessory Dwelling Unit; a Variance from Article 2, Section 2.02(28)(a) to allow an ADU to exceed the 750 square feet maximum; and, a Variance from Article 4, Section 4.06(6) to allow an ADU to encroach within the side setback in a Residential Two zone.

Mr. Schmidtchen turned to his daughter, Lindsay Chandler to present on their behalf. Ms. Chandler read the application into the minutes for the record. Ms. Chandler explained that they were looking for a Variance to exceed the maximum 750 square feet for the Accessory Dwelling Unit and they were also looking to obtain a Variance from the rear property line because they are a corner lot, they need to be 50 feet all around. Ms. Chandler indicated that they are looking for relief to be 27-feet from the property line. Ms. Chandler also stated to the Board that she submitted a bunch of pictures to the Board. At this time, Ms. Royce passed out the pictures to the Board members to review. Ms. Chandler pointed out that, half of the square footage that they are looking at is already in place over the garage. Mr. Schmidtchen added that, it was built like that for either his mother or his wife's mother, but it never happened, so it's been empty storage with the three (3) stall garage below. Ms. Chandler added that, 864 square feet comes from the existing space and what they are proposing is adding off of the back of the garage for an additional 768 square feet for a total of 1,632 square feet. Ms. Chandler explained that it would not alter the property as it would not be seen from the road. (Photos were presented) Mr. Schmidtchen pointed out that the ADU would not be intrusive to the abutter because it would be along their driveway and added that there is no real way that he could go off of the breezeway because the breezeway is on a slab and if they could it would be

going straight into the main bedroom. Ms. Chandler commented that it would be used by herself (the daughter) and her family and added that they have been living with her parents for over a year and that their children are enrolled in Auburn Village School. Ms. Chandler commented that, the real purpose of this is to help her parents maintain the property and that they want to travel and by having family living in the house would be beneficial. Ms. Chandler also mentioned that their oldest daughter has a medical condition and with that their help as well with the children is beneficial to them as well. With that said, Mr. Schmidtchen asked the Board if they had any questions.

Mr. DiPietro explained that, based on Mrs. Rouleau-Cote's Zoning Determination there is three (3) Variances and a Special Exception needed tonight. Mr. DiPietro asked the Board if they had any questions. Ms. Chandler also mentioned that the second floor was dormered and therefore they were losing 200 square feet of the upstairs because of the dormers. A brief discussion ensued with regard to accessing the ADU through the garage and a hallway. Ms. Chandler did mention that they have worked with Mrs. Rouleau-Cote to figure out the best option to make this work. Mr. Kimball asked Mrs. Rouleau-Cote, how is this any different than a duplex. Mr. Stuart wanted to know that question too. Mrs. Rouleau-Cote pointed out that, in order to have a duplex in the Town of Auburn that it would require 4 acres in that zone so it would require a Variance because they don't have the acreage to meet that requirement. Secondly, it also becomes different for a duplex. A brief discussion ensued with regard to whether or not this would be considered a duplex. Mrs. Rouleau-Cote pointed out that they are still sharing a habitable wall whereas a duplex would have a wall completely separating the two (2) units. Mr. Stuart pointed out that they would also need to update the septic. Ms. Chandler responded by saying that, one of the things that Mr. Beauchemin mentioned is that they would have to do a septic plan in the event of a failure but as long as one was on file, they would be okay. Mr. Schmidtchen stated that, he will be submitting the septic design for a 5 bedroom once they obtain approval. Mrs. Rouleau-Cote commented that under the state statute that the owner must occupy one of the units in which our Zoning Ordinance mimics it and all of the ADU conditions will have to follow this. A brief discussion ensued with regard to it becoming a rental unit. Mrs. Rouleau-Cote explained that we did have a provision that it could not be rented and then the state statute changed and said that it could be a rental unit as long as the owner occupies one of the units.

Mr. Kimball commented that, RSA 674:33(V) states that we are not required to determine the hardship to grant the variance as it states that, *...when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises.* Mr. Kimball wanted to remind the Board members of that.

Mr. DiPietro asked if there were any abutters who wanted to speak. Mr. Crete who lives across the street from the applicant on Coleman Road stated that he was in support of what they were proposing and did not have any issues and did not believe they would be able to see it. Mr. Mozer and his wife who live on Coleman Road commented that they were also in favor of what they were proposing and did not have any issues.

With that said, Mr. DiPietro stated that he would entertain a motion to vote on the Special Exception for the creation of an ADU in the R2 zone.

Mr. Bergeron made a motion to vote on the application for a Special Exception for the creation of an ADU in the R2 zone for 8 Colonial Drive, Tax Map 11, Lot 70-1 as presented tonight. Seconded by Mr. Stuart. Mr. Matte voted to Grant believing all four (4) factors have been met, Mr. Stuart voted to Grant finding all four (4) factors have been met, Mr. Kimball voted to Grant finding all four (4) factors have been met, Mr. Bergeron voted to Grant finding all four (4) factors have been met, and Mr. DiPietro also voted to Grant finding all factors have been met. A vote was taken and, all were in favor and the motion passed.

Mr. DiPietro moved on to the motion for the Variance for the ADU to exceed the 750 square feet to be 1,632 square feet.

Mr. Stuart made a motion to vote on the Variance to allow an ADU to exceed the maximum requirement of 750 square feet but not to exceed 1,632 square feet for 8 Colonial Drive, Tax Map 11, Lot 70-1 as presented tonight. Seconded by Mr. Bergeron. Mr. Matte voted to Grant believing all five (5) factors have been met, Mr. Stuart voted to Grant finding all five (5) factors have been met, Mr. Kimball voted to Grant finding four (4) factors have been met and that the fifth factor is waived, Mr. Bergeron voted to Grant finding all five (5) factors have been met, and Mr. DiPietro also voted to Grant finding all factors have been met. A vote was taken and, all were in favor and the motion passed.

Mr. DiPietro moved on to the motion for the Variance to allow an ADU with no habitable wall.

Mr. Stuart made a motion to vote on the Variance to allow an ADU as submitted with the extensive plans that shows with no habitable wall and no interior door access for 8 Colonial Drive, Tax Map 11, Lot 70-1 as presented tonight. Seconded by Mr. Bergeron. Mr. Matte voted to Grant believing all five (5) factors have been met, Mr. Stuart voted to Grant finding all five (5) factors have been met, Mr. Kimball voted to Grant finding that four (4) factors have been met and that the fifth factor is waived, Mr. Bergeron voted to Grant finding all five (5) factors have been met, and Mr. DiPietro also voted to Grant finding all factors have been met. A vote was taken and, all were in favor and the motion passed.

Mr. DiPietro moved on to the last Variance which is to allow construction of the addition to encroach within the rear property line setback in an R2 zone.

Mr. Bergeron made a motion to vote on the Variance to allow the construction of an ADU within the rear property line setback to be 27 feet from the property line for 8 Colonial Drive, Tax Map 11, Lot 70-1 as presented tonight. Seconded by Mr. Stuart. Mr. Matte voted to Grant believing all five (5) factors have been met, Mr. Stuart voted to Grant finding all five (5) factors have been met, Mr. Kimball voted to Grant finding four (4) factors have been met and that the fifth factor is waived, Mr. Bergeron voted to Grant finding all five (5) factors have been met, and Mr. DiPietro also voted to Grant finding all factors have been met. A vote was taken and, all were in favor and the motion passed.

Mr. DiPietro reiterated that they have two (2) years for substantial completion and that there was a 30-day appeal period. Mr. and Mrs. Schmidtchen and Ms. Chandler all thanked the Board members and exited the meeting and the discussion ended.

Minutes

Mr. DiPietro moved on to the approval of the minutes of May 24, 2022.

Mr. Stuart made a motion to approve the minutes of May 24, 2022, seconded by Mr. Matte. A vote was taken and, the motion passed.

New Business/Other Business

Ms. Royce informed the Board that the Board will not be meeting in August and therefore the next meeting of the Zoning Board of Adjustment would be August 23rd, 2022

Mr. DiPietro thanked everyone and stated that he would entertain a motion to adjourn.

Adjourn

Mr. Bergeron made a motion to adjourn, seconded by Mr. Stuart. All were in favor, the motion passed unanimously, and the meeting stood adjourned at 8:53 p.m.

The Zoning Board of Adjustment will not be meeting during the month of July. The next scheduled meeting is scheduled for Tuesday, August 23rd, 2022 at 7:00pm and will be held at the Town Hall, 47 Chester Road unless otherwise noted on the upcoming Agenda.